In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 16757 of 2006

Date of Decision: 24.10.2006

Rakesh Kumar

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Ms. Gagan Geet Kaur, Advocate
for the petitioner.
The petitioner in person also.

...

J.S. Khehar, J. (Oral).

The petitioner was dismissed from the post of constable by an order dated 26.4.2001, on account of his absence from duty for a period of 71 days, 4 hours and 30 minute. Dissatisfied with the order dated 26.4.2001 passed by the Commandant 36th Battalion PAP, Bahadurgarh, Patiala, the petitioner preferred an appeal. The appeal preferred by the petitioner was dismissed by the Deputy Inspector General of Police, PAP, Chandigarh, on 6.9.2004. The petitioner then preferred a revision petition so as to challenge the orders passed by the punishing authority, as well as, the appellate authority. The revision petition filed by the petitioner was also dismissed on 7.4.2005, by the Inspector General of Police, PAP, Jalandhar Cantt. Through the instant writ petition, the petitioner has impugned the aforesaid orders dated 26.4.2001, 6.9.2004 and 7.4.2005.

The primary contention of the learned counsel for the petitioner to substantiate, that the absence of the petitioner for the period referred to

above was not wilful, is based on medical certificates, collectively appended to this petition as Annexures P-5, P-5A, P-5B, P-5C, P-5D and P-5E. The aforesaid certificates depict, that the petitioner's wife Anita Rani, was unwell for the period during which the petitioner was absent from duty, and that, the petitioner was looking after his wife. It is, therefore, sought to be contended, that the petitioner's absence from duty from 4.10.2000 to 14.12.2000 cannot be deemed to be deliberate or wilful.

On a perusal of the order passed by the punishing authority dated 26.4.2001, we found, that although, the petitioner had taken the aforesaid defence, namely, that his wife was unwell during the period of his absence, yet in his response to the charge-sheet, he had not produced any medical certificate, or other proof, to authenticate the aforesaid factual position. Despite the fact, that he challenged the order passed by the punishing authority by preferring an appeal, as well as, a revision petition, he did not attach any medical certificate, either with the appeal or with the revision petition, filed by him inspite of the observations recorded in the order of the punishing authority. It is, therefore, that we were suspicious of the veracity of the certificates, which have now been placed on the record of this case, to substantiate the illness of the petitioner's wife, during the period of his absence from duty.

On the last date of hearing i.e. 23.10.2006, we required the learned counsel for the petitioner to ascertain the factual position about the veracity of the documents, referred to above, from the petitioner. Rather than informing us, learned counsel for the petitioner required the petitioner to be present in Court in person. It is, therefore, that we had an opportunity to require the petitioner to inform us about the veracity of the documents

appended to the writ petition as Annexures P-5, P-5A, P-5B, P-5C, P-5D and P-5E. During the course of hearing, the petitioner acknowledged, that the documents are forged. He also acknowledged, that all these documents were given by him to his counsel for being appended to the writ petition.

Since it is now apparent, that the excuse sought to be projected by the petitioner is based on forged documents, it is not possible for us to accept the prayer of the petitioner, in so far as the merits of the case, are concerned. The instant writ petition, is accordingly, dismissed.

Be that as it may, since the commission of an offence has come to our notice during the course of hearing of this case, we consider it just and appropriate to require the Registrar of this Court to forward a copy of this order to the Chief Judicial Magistrate, Chandigarh, for initiating criminal proceedings against the petitioner. It would also be in the fitness of the matter to require the Managing Director of the Punjab Health Systems Corporation, to ascertain, who was involved with the petitioner in making available to him the documents on which forgery was committed. Accordingly, the Registrar of this Court shall forward photocopies of the documents, referred to hereinabove, to the Managing Director of the Punjab Health Systems Corporation, so as to enable him to inquire and investigate into the matter.

Disposed of accordingly.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

24.10.2006
sk.